

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
BISMARCK DIVISION**

Luke Boller,)	Civil Action No.
)	
Plaintiff,)	
)	
vs.)	NOTICE OF REMOVAL
)	
Nathan D. Martin and Tim J. Karst)	
dba Karst Trucking,)	
)	
Defendants.)	

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant, Tim J. Karst dba Karst Trucking [hereinafter “Karst”] files this Notice of Removal, removing the above-captioned case from the District Court, County of McKenzie, State of North Dakota, to the United States District Court for the District of North Dakota – Bismarck Division. This matter is removable to this Court on the basis of federal diversity jurisdiction because this is a case between a Minnesota Plaintiff and Montana Defendants, involving claims in excess of \$75,000, exclusive of interest and costs, and it is timely removed by Defendants.

Statement of Removal

1. Plaintiff commenced the above-captioned action in District Court for the County of McKenzie, Northwest Judicial District, State of North Dakota, by serving a Complaint. The Complaint appears to have been served on July 3, 2018. The Complaint was filed by Karst on July 23, 2018.

2. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the following exhibits are attached and incorporated by reference:

Exhibit A Plaintiff’s Summons and Complaint – filed 7/23/18

**Exhibit B Separate Answer of Tim J. Karst dba Karst Trucking to
Plaintiff’s Complaint and Affidavit of Service – filed
7/23/18**

Exhibit C Notice of Filing of Summons Complaint – filed 7/24/18

Exhibit D Notice of Filing of Separate Answer of Tim J. Karst dba Karst Trucking to Plaintiff's Complaint – filed 7/24/18

No further proceedings have occurred in state court, and no other pleadings, process, or orders have been served upon Karst. Pursuant to 28 U.S.C. § 1441 (a), removal of an action originally filed in state court is proper in "any civil action brought in a State court of which the district courts of the United States have original jurisdiction."

3. Further, 28 U.S.C. § 1332(a) provides that "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between ... citizens of different states."

4. As set forth below, because this case involves a claim exceeding the sum of \$75,000.00 according to allegations contained in Plaintiff's Complaint, exclusive of interest and costs, and because the case arises between citizens of different states, it lies within the original subject matter jurisdiction of this Court, pursuant to 28 U.S.C. § 1332(a). In removing this matter to this Court, Karst does not intend to waive any defenses to the action, including, but not limited to, improper service, personal jurisdiction, and/or improper venue.

Diversity of Citizenship of the Parties and Consent to Removal

5. There is complete diversity of citizenship between Plaintiff and Defendants.

6. According to Paragraph I of the Complaint, Plaintiff is a resident and citizen of Minnesota.

7. Upon information and belief, Nathan D. Martin is an individual residing in Montana and is a Montana citizen, contrary to the allegations contained in Paragraph II of Plaintiff's Complaint which provides that he is a resident and citizen of the State of Nevada.

Karst anticipates that when served, Defendant Nathan D. Martin will also consent to removal of this action.

8. Karst is an individual residing in Montana and is a citizen of Montana as alleged in Paragraph III of Plaintiff's Complaint.

9. Defendants have diverse citizenship from the Plaintiff because no Defendant is a resident of Minnesota.

Amount in Controversy

10. The Complaint seeks damages in excess of \$50,000 based upon a negligence claim. Paragraph XI of Plaintiff's Complaint alleges that Plaintiff is seeking recovery for medical bills in excess of \$1,000,000 along with other damages.

11. Based upon the allegations in the Complaint, the amount in controversy exceeds the threshold of \$75,000.00.

Removal Procedure

12. Removal of the above-captioned matter is timely under 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6(a) because this Notice of Removal is filed within 30 days of service of the Complaint by Karst. See ¶1, above.

12. Removal is properly made to the United States District Court for the District of North Dakota, under 28 U.S.C. § 1441 (a), because McKenzie County, where this action would be pending, is within the District of North Dakota. See 28 U.S.C. § 106.24. Karst will file written notice of the filing of this Notice of Removal with the Clerk of the District Court of McKenzie County, Northwest Judicial District, State of North Dakota, Civil No. 27-2018-CV-00420, concurrently with the filing of this Notice of Removal and will serve the same on Plaintiff pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, by this Notice of Removal, Defendant Tim J. Karst dba Karst Trucking hereby removes this action from the District Court of McKenzie County, Northwest Judicial District, State of North Dakota, and requests that this action proceed as properly removed to this Court.

Dated this 24th day of July, 2018.

DONNA LAW FIRM, P.C.

/s/ Steven D. Pattee
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*Attorneys for Defendant Tim J. Karst
dba Karst Trucking*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon all counsel of record on this 24th day of July, 2018, by depositing a copy of the same in an official depository of the U.S. Mail in a postage-paid envelope addressed as follows:

Duane A. Lillehaug
Maring Williams Law Office, P.C.
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and

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Attorneys for Plaintiff

/s/ Steven D. Pattee
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